

SENATE BILL No. 431

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1.5-5.

Synopsis: Storm water management. Authorizes a county other than Marion County to establish a department of storm water management. (Under current law, the department of public works acts as the department of storm water management in Marion County.) Makes conforming changes.

Effective: Upon passage.

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January 14, 2002, read first time and referred to Committee on Rules and Legislative Procedure.

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Introduced

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE BILL No. 431

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1.5-5-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter
3 applies to each:

4 (1) municipality; and

5 (2) **county not having a consolidated city;**
6 that adopts the provisions of this chapter by ordinance.

7 SECTION 2. IC 8-1.5-5-1.5 IS ADDED TO THE INDIANA CODE
8 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
9 UPON PASSAGE]: **Sec. 1.5. The definitions set forth in IC 36-1-2**
10 **apply throughout this chapter.**

11 SECTION 3. IC 8-1.5-5-2 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this
13 chapter, "board" means the following:

14 (1) For a consolidated city, the board of public works established
15 by IC 36-3-5-6.

16 (2) For all other municipalities **or a county**, the board of directors
17 described in section 4 of this chapter.

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SECTION 4. IC 8-1.5-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, "department" means the following:

(1) For a consolidated city, the department of public works.

(2) For all other municipalities **or a county**, the department of storm water management established under section 4 of this chapter.

SECTION 5. IC 8-1.5-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) This section ~~applies to all municipalities except~~ **does not apply to** a consolidated city.

(b) If the legislative body of a municipality **or the county executive** adopts the provisions of this chapter by ordinance, a department of storm water management is established and is controlled by a board of directors.

(c) Except as provided in ~~subsection~~ **subsections (f) and (g)**, the board consists of three (3) directors. The executive ~~of the municipality~~ shall appoint the directors, not more than two (2) of whom may be of the same political party.

(d) Except as provided in ~~subsection~~ **subsections (f) and (g)**, the ~~legislative body shall prescribe~~ **by ordinance shall prescribe** the terms of the directors. ~~However, the legislative body and~~ must prescribe the initial terms of the directors so that they will be staggered.

(e) The executive may remove a director at any time when, in the judgment of the executive, it is for the best interest of the department.

(f) If a second class city has a department of public sanitation under IC 36-9-25, the executive of the city may appoint the members of the board of sanitary commissioners as the board of directors of the department of storm water management. The terms of the members of the board of directors are the same as the terms of the members of the board of sanitary commissioners under IC 36-9-25-4.

(g) If a county executive adopts an ordinance under this chapter, the ordinance may appoint:

(1) the members of the county executive and the county surveyor (or the surveyor's designee); or

(2) the drainage board for the county;

as the board of directors of the department. The term of office of a member of the board who is appointed from the membership of the county executive or the drainage board is coextensive with the member's term of office on the county executive or the drainage board. If the county surveyor or the surveyor's designee is appointed under subdivision (1), the term of the surveyor or

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1 **designee as a member of the board is coextensive with the**
 2 **surveyor's term of office.**

3 **(h)** A member of the board of directors of the department of storm
 4 water management appointed under subsection (f) **or (g)** is not entitled
 5 to a salary **or per diem** for serving as a member of the board of
 6 directors of the department of storm water management. However, a
 7 member shall be reimbursed for necessary expenses incurred by the
 8 member in the performance of official duties.

9 SECTION 6. IC 8-1.5-5-5 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The
 11 ~~legislative body shall, in the~~ ordinance adopting the provisions of this
 12 chapter ~~create~~ **creates** a special taxing district that includes the
 13 following:

14 (1) For a consolidated city, all of the territory of the county
 15 containing the consolidated city.

16 (2) For all other municipalities, all territory within the corporate
 17 boundaries of the municipality.

18 **(3) For a county, all the territory in the county, except**
 19 **territory within a municipality that has established a**
 20 **department.**

21 (b) ~~As to each municipality to which this chapter applies, including~~
 22 ~~a consolidated city,~~ All the territory within the district constitutes a
 23 special taxing district for the purpose of providing for the collection
 24 and disposal of storm water of the district in a manner that protects the
 25 public health and welfare and for the purpose of levying special benefit
 26 taxes for purposes of storm water collection and disposal. All ~~area~~
 27 **territory** in the district and all ~~area~~ **territory** added to the district is
 28 considered to have received a special benefit from the storm water
 29 collection and disposal facilities of the district equal to or greater than
 30 the special taxes imposed on the ~~area by~~ **territory under** this chapter
 31 in order to pay all or part of the costs of such facilities.

32 SECTION 7. IC 8-1.5-5-6 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The board
 34 has the powers and duties prescribed by IC 8-1.5-3-4(a). In addition,
 35 the board may:

36 (1) hold hearings following public notice;

37 (2) make findings and determinations;

38 (3) install, maintain, and operate a storm water collection and
 39 disposal system;

40 (4) make all necessary or desirable improvements of the grounds
 41 and premises under its control; and

42 (5) issue and sell bonds of the district in the name of the



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~~municipality unit that is served by the department~~ for the acquisition, construction, alteration, addition, or extension of the storm water collection and disposal system or for the refunding of any bonds issued by the board.

(b) The board has exclusive jurisdiction over the collection and disposal of storm water within the district.

SECTION 8. IC 8-1.5-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The acquisition, construction, installation, operation, and maintenance of facilities and land for storm water systems may be financed through:

- (1) proceeds of special taxing district bonds of the storm water district;
- (2) the assumption of liability incurred to construct the storm water system being acquired;
- (3) service rates;
- (4) revenue bonds; or
- (5) any other available funds.

(b) The board, after approval by the ~~legislative fiscal~~ body of the ~~municipality, unit that is served by the department~~, may assess and collect user fees from all of the property of the storm water district for the operation and maintenance of the storm water system.

SECTION 9. IC 8-1.5-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) If the board acquires a storm water system and assumes the liability incurred by the seller to construct the storm water system, the principal and interest on the liability so assumed shall be paid from the bond and interest redemption account in the same manner as bonds of the district would be paid, and the board shall set aside sufficient revenues to comply with the requirements of the instrument creating the liability.

(b) A ~~municipality unit~~ acquiring a storm water system may not assume any liability for the payment of a secured debt or charge other than the obligation to apply the revenues in the manner prescribed in the ordinance.

(c) The board may issue bonds in exchange for, or satisfaction of, the liability assumed in the acquisition of a storm water system. The bonds so issued may not be issued at less than ninety-seven percent (97%) of the par value thereof in exchange for, or satisfaction of, the liability. Notwithstanding section 13(c) of this chapter, bonds issued in exchange for, or satisfaction of, the liability need not be sold in accordance with IC 5-1-11. However, the interest rate on such bonds may not exceed the average yield on municipal revenue bonds of comparable credit rating and maturity as of the end of the week

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immediately preceding the issuance of the bonds.

SECTION 10. IC 8-1.5-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) **This section applies to a municipality.**

(b) The reasonable cost and value of any service rendered to the municipality by the storm water system by furnishing storm water collection and disposal shall be:

- (1) charged against the municipality; and
- (2) paid for in monthly installments as the service accrues out of the:

(A) current revenues of the municipality, collected or in process of collection; and

(B) tax levy of the municipality made by it to raise money to meet its necessary current expenses.

~~(b)~~ (c) The compensation for the service provided to the municipality shall, in the manner prescribed by this chapter, be treated as revenues of the system and paid into the funds created under this chapter.

SECTION 11. IC 8-1.5-5-16.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16.5. (a) **This section applies to a county.**

(b) The reasonable cost and value of any service rendered to the county by the storm water system by furnishing storm water collection and disposal shall be:

- (1) charged against the county; and
- (2) paid for in monthly installments as the service accrues out of the:

(A) current revenues of the county, collected or in process of collection; and

(B) tax levy of the county made by the county to raise money to meet the county's necessary current expenses.

(c) The compensation for the service provided to the county shall, in the manner prescribed by this chapter, be treated as revenues of the system and paid into the funds created under this chapter.

SECTION 12. IC 8-1.5-5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) To procure money to pay for the required property and the acquisition, erection, and construction of the proposed work, and in anticipation of the collection of the special benefit tax, the board may issue, in the name of the ~~municipality~~, **unit that is served by the department**, special



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1 taxing district bonds of the storm water district. The bonds may not
 2 exceed the total estimated cost of the work and property to be acquired
 3 as provided for in the resolution, including:

4 (1) all expenses necessarily incurred for supervision and
 5 inspection during the period of construction; and

6 (2) expenses actually incurred preliminary to the acquiring of the
 7 necessary property and the construction of the work, including the
 8 cost of records, engineering expenses, publication of notices,
 9 salaries, and other expenses incurred, before and in connection
 10 with the acquiring of the property, the letting of the contract, and
 11 the sale of bonds.

12 (b) After adopting a resolution authorizing the bonds, the board
 13 shall certify a copy of the resolution to the ~~municipal~~ fiscal officer, who
 14 shall then prepare the bonds. The ~~municipal~~ executive shall execute the
 15 bonds, and the fiscal officer shall attest the bonds.

16 (c) The board may not issue bonds of the storm water district,
 17 payable by a special benefit property tax, when the total of the
 18 outstanding bonds of the district that are payable from a special benefit
 19 property tax, including the bonds already issued and to be issued,
 20 exceeds eight percent (8%) of the total adjusted value of taxable
 21 property in the district as determined under IC 36-1-15. For purposes
 22 of this section, bonds are not considered to be outstanding bonds if the
 23 payment has been provided for by an irrevocable deposit in escrow of
 24 government obligations sufficient to pay the bonds when due or called
 25 for redemption.

26 (d) The bonds are not a corporate obligation or indebtedness of the
 27 ~~municipality unit~~ but are an indebtedness of the storm water district.
 28 The bonds and interest are payable:

29 (1) out of a special benefit tax levied upon all of the property of
 30 the storm water district; or

31 (2) by any other means including revenues, cash on hand, and
 32 cash in depreciation or reserve accounts.

33 (e) The bonds must recite the terms upon their face, together with
 34 the purpose for which they are issued.

35 SECTION 13. IC 8-1.5-5-22 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) To raise the
 37 necessary revenues to pay for the bonds issued and the interest on the
 38 bonds, the board:

39 (1) after approval by the ~~legislative~~ **fiscal** body of the
 40 ~~municipality~~, **unit that is served by the department**, shall levy
 41 a special benefit tax upon all the property of the storm water
 42 district in the amount necessary to meet and pay the principal of

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the bonds as they severally mature, together with all accruing interest; and

(2) shall certify the tax levied each year to the fiscal ~~officers~~ **officer** of the ~~municipality and of the county in which the storm water district is located;~~ **unit that is served by the department** at the same time ~~the levy of the municipality is and in the same manner as other levies of the unit are~~ certified.

The tax levied and certified shall be estimated and entered upon the tax duplicate and shall be collected and enforced in the same manner as state and county taxes are estimated, entered, and enforced.

(b) In fixing the amount of the necessary levy, the board:

(1) shall consider the amount of revenues derived by the board from the operation of the storm water system under its jurisdiction above the amount of revenues required to pay the cost of operation and maintenance of the storm water system; and

(2) may, in lieu of making the levy in this section, set aside by resolution a specific amount of the surplus revenues to be collected before maturity of the principal and interest of the bonds payable in the following calendar year.

(c) The special tax shall be deposited in the bond and interest redemption account.

SECTION 14. IC 8-1.5-5-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) The board may not issue any bonds authorized by this chapter until it has secured the approval for the issuance of the bonds from the ~~legislative fiscal~~ body of the ~~municipality;~~ **unit that is served by the department.**

(b) IC 6-1.1-20 applies to the issuance of bonds under this chapter which are or may be payable from the special benefit property tax.

SECTION 15. **An emergency is declared for this act.**

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